

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

JACKIE BOYD,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Case No. 6:20-cv-504-JDK-KNM
	§	
KEN PAXTON, et al.,	§	
	§	
Defendants.	§	

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Jackie Boyd, a Texas Department of Criminal Justice prisoner proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for disposition.

On October 7, 2020, Judge Mitchell issued a Report and Recommendation in this case. Docket No. 6. In that Report, Judge Mitchell found that Plaintiff accumulated at least three strikes prior to filing this lawsuit pursuant to 28 U.S.C. § 1915(g). Accordingly, the Report recommended that this case be dismissed with prejudice for the purpose of proceeding *in forma pauperis*. Judge Mitchell further recommended that the case should proceed if Plaintiff paid the full filing fee within fifteen days of the dismissal order.

Plaintiff received a copy of the Report but did not file objections. *See* Docket No. 12 (indicating Plaintiff received the Report on November 5, 2020). Instead, he sent two letters to the Court indicating that he had never received notice that the

present lawsuit was filed and that he was unable to file objections because a TDCJ employee, Laura Ridge, takes his mail. Docket Nos. 13, 14. However, Plaintiff was plainly able to correspond with the Court, as both of these letters were received after Plaintiff received his copy of the Report.

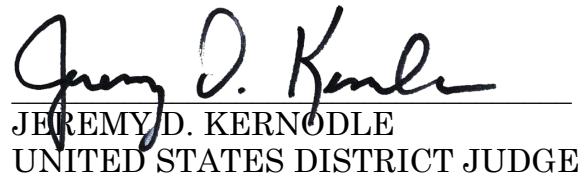
This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), superseded on other grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. See *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), cert. denied, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 6) as the findings of this Court. The Court **DISMISSES** Plaintiff's claims, with prejudice for purposes of proceeding *in*

forma pauperis under 28 U.S.C. § 1915(g), but without prejudice as to the refiling of his lawsuit without seeking *in forma pauperis* status. Finally, if Plaintiff pays the full filing fee within fifteen days of this Order, the lawsuit shall proceed as though the full filing fee had been paid from the outset.

So ORDERED and SIGNED this 11th day of May, 2021.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE